

CURRENCIES

NEWS FROM TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS
THIRD QUARTER, 2005

from the
commissioner

Combating PREDATORY LENDING

Since the beginning of my tenure as the 17th Commissioner of the Department, I have traveled across the state speaking to many groups about the priorities of the Department.

One of those priorities is combating predatory lending and focusing our energy on how to protect consumers from abusive, deceptive practices that occur in our state.

With the recent passage of the legislation that brings title pledge lenders under the Department's authority, along with the passage of the mortgage loan originator law last year, the Department is in a better position to further the Governor's commitment to combat predatory lending.

For more information on the title pledge legislation, please see the accompanying article on this page.



COMMISSIONER KEVIN P. LAVENDER

First Farmers & Merchants Bank Converts to State Charter

First Farmers & Merchants Bank, based in Columbia, has recently converted from a national banking association to a state-chartered bank.

Founded in 1909 as a state-chartered institution, First Farmers & Merchants National Bank obtained a national charter in 1954. The bank began working on converting to a state charter late last year.

Randy Stevens, chairman of the bank's board and chief executive officer, said the board was interested in converting back to a state charter for a number of reasons.

"The board felt that our customers and shareholders would be better served by operating the bank as a state charter. Since we were founded as a state-chartered bank in 1909, we were pleased to return back to our roots," Stevens said.

Commissioner Kevin P. Lavender agrees: "We are pleased to welcome First Farmers & Merchants Bank back to the state-chartered system. We believe that Tennessee is the charter of choice and we are pleased that the bank's officers have made a decision to come back home."



Commissioner Kevin P. Lavender congratulates Waymon L. Hickman, Sr., First Farmers & Merchants Bank Senior Chairman, regarding the board's decision to convert to a state-chartered bank. Pictured left is bank president John P. Tomlinson and T. Randy Stevens, bank chairman and CEO, is pictured to the right.

The location of the Department's headquarters was a contributing factor in the decision to convert to a state charter, Stevens said. First Farmers & Merchants Bank is based in Columbia which is about 40 miles from Nashville.

Among other reasons, the location of the bank regulator is an important factor to consider, Lavender added.

"This is one of the advantages that I tout to bankers across the state. Greater

continued on page 4

Tennessee General Assembly Passes Title Pledge Legislation Authorizes Department to Regulate Title Pledge Lenders

In the final days of the recent legislative session, members of the Tennessee General Assembly unanimously passed HB 1784/SB 2025 that authorizes the Tennessee Department of Financial Institutions to regulate title pledge lenders.

Licensing will begin on November 1 and title pledge lenders will have 60 days to license with the Department. The license fee for each title pledge location is \$700.

"The passage of this legislation is yet another step toward protecting consumers from abusive, deceptive practices that occur

continued on page 6

Campaign to Improve Bank Secrecy Act Enforcement

WILLIAM FOX, DIRECTOR OF FINCEN AND KEVIN P. LAVENDER, COMMISSIONER SHAKE HANDS AFTER THE SIGNING OF THE MEMORANDUM OF UNDERSTANDING AGREEMENT.



Kevin P. Lavender, Commissioner of the Tennessee Department of Financial Institutions, signed a Memorandum of Understanding with the Financial Services Enforcement Network to streamline enforcement of the Bank Secrecy Act. The signing – which also included 29 other states – took place on June 1 at the annual Conference of State Banking Supervisors (CSBS) conference in San Antonio.

Lavender, who signed the MOU with William Fox, director of the Financial Services Enforcement Network (FinCen), said the signing underscores the vital role the state plays in preventing money laundering and terrorist financing through banks and money service businesses.

“This agreement helps us better utilize our resources in ensuring that the financial

institutions we supervise are fulfilling the anti-money laundering requirements of the Bank Secrecy Act, and will lead to more effective compliance,” Lavender said.

FinCen – which has been designated by the U.S. Department of Treasury to establish, oversee and implement policies to detect and prevent money laundering and terrorist financing – administers the Bank Secrecy Act, which authorizes the collection, analysis and dissemination of financial information important to the prevention of money laundering and terrorist financing.

During the past several months, CSBS, the Money Transmitter Regulators Association (MTRA) and the National Association of State Credit Union Supervisors (NASCUS) worked diligently to achieve this coordinated approach, said John Allison, chairman of CSBS and Mississippi Commissioner of Banking and Consumer Finance.

“Not only will this agreement provide specific analysis reports to the state regulators, but also FinCEN will be receiving and analyzing additional data provided by the states,” Allison said. “As each agency will be receiving more information through this process, BSA examinations should be more efficient and supervisory agencies will have the ability to provide better guidance to the industry.”

BANK APPLICATION REPORTS

Name & Location	Nature of Change	Date Effective/Approved
Fayette Bancorp, Inc., Memphis, Hickory Valley, TN	Acquire 50% of the outstanding 5 voting shares of Mason Bancorp, Inc. thereby indirectly acquiring 50% of The Bank of Mason, Mason, TN	Effective: 6/1/05 Approved: 5/13/05
Mason Bancorp, Inc., Hickory Valley, TN	Acquire 100% of the outstanding voting shares of The Bank of Mason, Mason, TN.	Effective: 6/1/05 Approved: 5/9/05
Academy Bank, Lebanon, TN	Merged with and into Bank of the SouthMt. Juliet, Tennessee, under the title of Bank of the South	Effective: 6/1/05 Approved: 1/4/05
FirstBank Lexington, TN	Branch Closure: 7525 Winchester Road, Memphis, TN	Effective: 6/13/05 Approved: n/a
Greene County Bank Greeneville, TN	Branch Facility Open: 1000 Corporate Centre Drive Suite 140, Franklin, TN 37067 using the operational name "Middle Tennessee Bank & Trust, a Greene County Bank Office"	Effective: 5/31/05 Approved: 3/21/05 Notice Received: 6/2/05
Investment Counsel & Trust Company, Memphis, TN	Relocate Main Office from: 700 Colonial Road, Suite 120 to 5350 Poplar Avenue, Suite 675 both locations in Memphis, TN	Effective: 6/21/05 Approved: 6/21/05
Bank of Bolivar Bolivar, TN	Acquire the Assets and Assume the Liabilities of Branch locations of Colonial Bank, N.A., Montgomery, Alabama at: 1422 Huntsville Highway, Fayetteville, TN; 307 W. Madison, Pulaski, TN; and 26314 Main Street Ardmore, TN	Effective: 6/24/05 Approved: 5/17/05
Independent Bank Memphis, TN	Branch Facility Open: 3295 Poplar Avenue Memphis, TN	Effective: 6/29/05 Approved: 9/24/04

JUNE 2005

Tennessee Banker Appointed to CSBS ADVISORY BOARD

Waymon Hickman, Senior Chairman of First Farmers & Merchants Bank, has been appointed to a two-year term on the Conference of State Bank Supervisors (CSBS) Bankers Advisory Board.

Hickman, who began his duties in June, will meet four times a year in conjunction with the CSBS Board of Directors. The Bankers Advisory Board represents the views of CSBS bank members in discussions that aim to shape the organization's policy stances.

The Conference of State Bank Supervisors is the professional association of state officials responsible for chartering, supervising and regulating the nation's 6,300-plus state-chartered commercial and savings banks, and more than 400 state-licensed foreign banking offices nationwide.

Department Increases Number of Compliance Examiners

BY MELODY JOHNSON, COMPLIANCE FINANCIAL ANALYST

In an effort to better serve consumers and regulated entities, the Compliance Division in the Tennessee Department of Financial Institutions has doubled its examiner force since last July, and seven additional examiners will be hired in the coming months in response to recently passed title pledge legislation.

Last year, 13 examiners were responsible for covering the entire state. But, now there are 10 examiners working in East Tennessee, 10 examiners in Middle Tennessee and nine in West Tennessee. After the

seven additional examiners are hired, the examiner force will increase to a total of 36 examiners.

"The increase in examiners means more protection for consumers," said Mike Igney, Assistant Commissioner for the Compliance Division. "It is our goal to examine each licensed company within the next 12 to 18 months."

In addition to the increase in the number of Compliance examiners statewide, Regional Managers have been assigned specific regions based on the three grand divisions:

- West Tennessee: Georgia Cannon
- Middle Tennessee: Chris Adams
- East Tennessee: Brian Williams

"This level of exam penetration is critical for effective regulation of the financial institutions in Tennessee," Igney added.

Each examiner is qualified to examine all types of entities including mortgage companies, industrial loan and thrift, deferred presentment, check cashers, premium finance companies and money transmitters.

FREQUENTLY CITED MORTGAGE EXAMINATION VIOLATIONS

BY MELODY JOHNSON, COMPLIANCE FINANCIAL ANALYST

With the intent to better serve regulated mortgage companies, the Tennessee Department of Financial Institutions has outlined the three most common violations cited during mortgage examinations.

OVERCHARGING ON INTEREST RATES: Tennessee Code Annotated (T.C.A.) § 47-14-102(6) states that the formula rate means an annual rate of interest four points above the average prime loan rate for the most recent week for which such an average rate has been published by the board of governors of the Federal Reserve System, or twenty-four percent (24%) per annum, whichever is less. The effective formula rate is published weekly and can be found on the Department's web site at www.tennessee.gov/financialinst/.

T.C.A. § 47-15-101(1)(A)(B): states that a home loan is a loan which is secured by real estate owned and occupied by the borrower for family residential purposes and which may include not more than three (3) additional residential

units, and the loan is amortized over a period greater than one hundred eighty-one (181) months.

T.C.A. § 47-15-102(a) states that the maximum effective rate of interest per annum for home loans is hereby set at an amount equal to two (2) percentage points above the most recent weighted average yield of the accepted offers of the Federal National Mortgage Association's current free market system auction for commitments to purchase conventional home mortgages as determined pursuant to § 47-15-103. The maximum effective interest rate is published monthly and can be found on the Department's web site.

EXCESSIVE FEES/UNEARNED FEES: Real Estate Protection Act (RESPA) Regulation X § 3500.14(b) states that no person shall give and no person shall accept any fee, kickback, or other thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a settlement service involving a

federally related mortgage loan shall be referred to any person.

INCONSISTENCIES BETWEEN THE GOOD FAITH ESTIMATE AND HOUSING & URBAN DEVELOPMENT (HUD) -1: RESPA Regulation X § 3500.7(c)(1) states that a Good Faith Estimate consists of an estimate, as a dollar amount or range, of each charge which will be listed in section L of the HUD-1 or HUD-1A.

Licensed entities are encouraged to review the entirety of T.C.A. § 45-13-101, et seq., in addition to, the provisions of RESPA. The Department is authorized under T.C.A. § 45-13-112 to investigate the business and examine the books, accounts, records and files used therein of each licensee and each registrant. Examination fees are currently \$275 per examiner per day, and each company shall pay the actual expenses of the investigation and examination. For additional information, go to www.tennessee.gov/financialinst or call the Department at (615) 741-3186.

Consumer Summit Workshop Set for August in Knoxville

By Crystal Oldham, Consumer Education Coordinator

The Tennessee Department of Financial Institutions and the Tennessee Department of Commerce and Insurance are partnering again to present a consumer services workshop on August 18 at the John T. O'Connor Senior Center in Knoxville.

The workshop – which is part of an ongoing series that has been held across the state – is designed to educate consumers on various topics including identity theft, frauds and schemes, and mortgage lending.

“This is just an example of the Department’s efforts to

provide citizens access to information that may help them make informed financial decisions,” said Nicole Lacey, Assistant Commissioner of the Consumer Resources Division.

A similar workshop was held at the University of Memphis Fogelman Center last April. More than 150 attended.

For more information on the Knoxville event please contact Sheila Stevens at (615) 741-5900 in the Department of Commerce and Insurance or e-mail her at Sheila.Stevens@state.tn.us.

Department Participates in Hispanic Housing Fair

More than 500 attend Nashville event

In an effort to promote homeownership to the Latin community and all potential homebuyers in Middle Tennessee, the Department of Financial Institutions participated in the Fiesta del Hogar de Centro Tennessee – Housing Festival of Middle Tennessee on June 19 at Nashville’s Municipal Auditorium.

More than 500 people attended the event which was designed to promote homeownership. The Department partnered with more than 60 organizations — including several state and federal agencies, financial institutions, and non-profit organizations – to distribute information to participants. Kevin P. Lavender, Commissioner of the Department, also spoke during the event’s opening ceremony.

“It is our goal to inform and better educate Hispanic consumers who are not familiar with the practices of our Department and to ensure them that we are here to serve them, in addition to our English speaking consumers,” he said.

The housing fair, which was held in conjunction with the Mexican Rodeo at the Municipal Auditorium, was an effective form of outreach for the Department, said Nicole Lacey, Assistant Commissioner of the Consumer Resources Division.

“It is important that we reach out to these citizens to ensure they have access to information that will help educate them on the home-buying process,” Lacey said.

Esther Ruiz Eddy, Consumer Resources Specialist in the Department’s Consumer Resources Division, agrees: “Many Latinos are hesitant about buying a home because of the language barrier or they simply do not trust lenders. Education is the key component to eliminating fear associated with the home buying process that has kept Latinos out of the housing market.”

First Farmers & Merchants Bank Converts to State Charter, *continued from page 1*

access is a benefit and contributes to improved communication between the bank and the regulator,” Lavender said.

Such communication is further enhanced by the Department’s open door policy which was also a factor that contributed to the decision to convert, Stevens said.

“We have been impressed by this open door philosophy that has been given to us by the Commissioner and Tod Trulove, the Assistant Commissioner of the Bank Division. This philosophy makes the Tennessee charter attractive for banks like First Farmers & Merchants. We look forward to a long-term relationship with the Department,” he added.

The bank operates over 20 offices in six counties: Lawrence, Maury, Marshall, Hickman, Dickson and Giles counties. It is one of the largest independent banks in Tennessee with total assets over \$825 million, as well as more than \$2 billion in assets held by its trust department.

Department Partners to Host Financial Literacy Training Session

The Tennessee Department of Financial Institutions partnered with Freddie Mac and AmSouth Bank to host a training session to teach CreditSmart, a financial literacy curriculum created by Freddie Mac. The event was held at AmSouth’s Nashville headquarters on July 7.

More than 30 representatives from Nashville-area non-profit organizations attended the session to learn how to teach the 11-step module curriculum that teaches citizens how to understand, build, and maintain their credit.

“The issue of understanding credit is a serious issue. With continual increases in bankruptcies, foreclosures and personal debt levels, we need to teach citizens the importance of understanding credit and its impact on our financial lives,” said Nicole Lacey, Assistant Commissioner of the Consumer Resources Division.

CreditSmart was designed to help consumers obtain the knowledge and skills necessary to manage personal finances and positively impact their credit. It is being distributed nationwide to both non-profit organizations and financial institutions committed to teaching the importance of credit.

CU'S New AC



What made you interested in the position of Assistant Commissioner of the Credit Union Division?

I first became interested in this position after reading an advertisement on the Tennessee Credit Union League's web site. After meeting with the Commissioner, I decided that I would like to become an employee of this Department.

What do you see as the biggest challenge in this position?

The biggest challenge of this role will be to ensure that the value of the dual chartering system is effectively communicated. The value of the state charter is clearly evident when the chief executive officer of a state-chartered credit union can make the short drive to Nashville and meet with their regulator in person.

What do you see as the major strengths of the Credit Union Division?

The major strength of the Credit Union Division is that by having our office here in Nashville, we have direct access to state legislators. Every member of the Credit Union Division lives and works here in the Great State of Tennessee. Since our regulators and examiners live in the areas being overseen, there is a deep understanding of the interaction between communities and groups within the state. Thus, we are better able to articulate the need for innovative field of membership decisions by lawmakers.

Tell us about past experiences that will aid you in your new position.

I have worked as an external auditor performing the supervisory audits that are so very important to all credit unions. I have also served as chief executive officer for a small federal credit union in Jackson. As a former auditor and chief executive officer, I can address emerging credit union issues efficiently.

What is your goal for the Credit Union Division in the next year?

I would like to see the Credit Union Division actively participating in the growth of a safe and sound state credit union system. This Division will continue to maintain a highly motivated, well-trained and experienced staff. We will continue meeting the challenges of technology advancement and will effectively communicate with the Credit Union industry. It is

important for this Division to ensure that the value of the state charter is clearly expressed.

What do you see as the biggest difference in managing a credit union and working in a regulator position?

As a chief executive officer, I managed and operated only one credit union. As a regulator, I will be able to work with all of the credit unions throughout Tennessee.

There are currently 123 state-chartered credit unions in Tennessee. Do you see this number growing in the next 12 months? In the next five years?

I would like to see this number expand in the coming year as well as over the next five years. It will be one of my ongoing goals to increase the number of state-chartered credit unions whether by new startups or conversions.

What role do you see the Department taking in assisting problem credit unions?

I see the Department as the entity that is charged with monitoring the safety and soundness of the state-chartered credit unions. In this position, I see the Department maintaining a close relationship with credit unions displaying negative trends so that this can be reversed as quickly as possible.

What is your stand on community-chartered credit unions?

Community-chartered credit unions are the wave of the future. I believe that the State of Tennessee will see more community charters as time progresses.

How do you see banks and credit unions working closer together in the future?

It is my opinion that there is a place for both banks and credit unions in the financial institutions industry. When services overlap, then competition comes into play and that is good for the people of Tennessee. I feel that both groups have common goals and by working together these goals will be effectively accomplished for the betterment of the people of the Great State of Tennessee.

The value of the state charter is clearly evident when the chief executive officer of a state-chartered credit union can make the short drive to Nashville and meet with their regulator in person.

Former Acting Assistant Commissioner of Credit Union Division Retires

After 25 years of service, Paul Foster, who served as Safety and Soundness Manager of the Credit Union Division in the Department of Financial Institutions, retired on May 26.

Foster served in many roles within the Department including most recently as Acting Assistant Commissioner from March 2003 until April 2005.

He began his service in 1980 as a field examiner, working primarily in East Tennessee and eventually moved to Nashville where he later transferred to the Compliance Division, serving as a director. In January 1994, Foster returned to the Credit Union Division as the Safety and Soundness Manager and was later promoted to Acting Assistant Commissioner.

"Paul was an intricate part of the Department and his service aided in its growth and development over the past 25 years," said Kevin P. Lavender, Commissioner.

2004 ANNUAL REPORT

Now Available Online

The 2004 Annual Report for the Tennessee Department of Financial Institutions is now available online at

www.tennessee.gov/financialinst.

This report provides a complete overview of the Department, including information on each operating Division and the entities the Department regulates. A printed version of the report should be available later this summer.

Department to Regulate Title Pledge Lenders, *continued from page 1*

in our state," said Kevin P. Lavender, Commissioner. "It further underscores the Governor's commitment to combating predatory lending."

Among other provisions, the legislation authorizes the Department to:

- Investigate license applications.
- Assess civil money penalties, issue cease and desist orders, and require refunds.
- Grant subpoena power.
- Suspend/revoke license for violations of the Title Pledge Act. Suspend/bar individuals from the industry.
- Require applicants to submit bond/letter of credit for the protection of consumers injured by wrongful conduct.
- Require applicants to show a tangible net worth of not less than \$75,000 for each location.

In addition, the legislation also adds consumer protections:

- Requires borrowers to pay a 5 percent principal reduction starting with third renewal. Current law allows these loans to be renewed indefinitely with no principal reduction.
- Provides borrowers with a one day right of rescission.
- Full authority to investigate consumer complaints including ability to subpoena, etc.
- Requirement that sales of repossessed pledged property be made in a "commercially reasonable" manner as defined by the Uniform Commercial Code, and return any surplus of the sale to the borrower.

The Department will also report its findings on the state of the title pledge industry to members of the Tennessee General Assembly in February 2006. The report will include information on interest rates, fees and information on what other states are doing as it relates to this industry.

For more information regarding the legislation, visit the Tennessee General Assembly web site at www.legislature.state.tn.us or contact Mike Igney, Assistant Commissioner of the Compliance Division, at (615) 532-1020.

CURRENCIES

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